

5036. Adulteration and alleged misbranding of evaporated apples. U. S. * * * v. William J. Hamilton, Administrator * * *. Plea of guilty to counts 1, 3, 5, 7, 9, and 11 of information. Fine, \$15 and costs. Other counts nol-prossed. (F. & D. No. 6822. I. S. Nos. 9189-h, 11515-k, 11522-k, 11525-k, 11549-k, 12728-k.)

On December 2, 1915, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William J. Hamilton, administrator of the estate of A. C. Hamilton, deceased, trading variously as A. C. Hamilton & Co., the Ozark Apple Co., and the Western Evaporating Co., Fayetteville, Ark., alleging shipments from the State of Arkansas by said defendant, in violation of the Food and Drugs Act, on or about April 3, 1914, into the State of Texas; August 20, 1914, into the State of Oklahoma; September 28, 1914, into the State of Texas; October 19, 1914, into the State of Missouri; September 22, 1914, into the State of Texas; and September 23, 1914, into the State of Kansas, of quantities of evaporated apples, which were adulterated and misbranded. The shipment of April 3, 1914, was labeled in part: "New Crop Evaporated Apples. Western Brand. Packed by Western Evaporating Co., Fayetteville, Arkansas. * * *" The shipment on August 20, 1914, was labeled in part: "New Crop Ulster Brand Evaporated Apples * * * Packed by A. C. Hamilton & Co. Fayetteville, Ark. * * *" The shipment on September 28, 1914, was labeled in part: "Fancy Evaporated Apples. New Crop. * * *" The shipment on October 19, 1914, was labeled in part: "* * * Western Brand * * * Evaporated Apples Ozark Apple Company, Fayetteville, Ark. * * *" The shipment on September 22, 1914, was labeled: "Evaporated Apples Ozark Brand * * * packed by the Ozark Apple Co. Fayetteville, Arkansas." The shipment on September 23, 1914, was labeled: "Evaporated Apples * * * New Crop Ulster Brand Packed by A. C. Hamilton & Company, Fayetteville, Arkansas. * * *."

Analyses of samples of the articles in all these shipments by the Bureau of Chemistry of this department showed that it contained an excessive amount of moisture.

Adulteration of the article was alleged in counts 1, 3, 5, 7, 9, and 11 of the information, for the reason that a certain substance—to wit, water—had been mixed and packed with said article so as to reduce, lower, and injuriously affect its quality and strength.

Misbranding was alleged in counts 2, 4, 6, 8, 10, and 12, for the reason that the following statement, appearing on the labels aforesaid, to wit, "Evaporated Apples," was false and misleading, in that it indicated to purchasers thereof that said article of food consisted of evaporated apples, and for the further reason that it was labeled, "Evaporated Apples," so as to deceive and mislead purchasers into the belief that it consisted of evaporated apples, when, in truth and in fact, it did not, but did consist of, to wit, a partially dried apple product containing an excessive amount of moisture. Misbranding was alleged for the further reason that said article was a partially dried apple product containing an excessive amount of moisture, and was sold under the distinctive name of another article, to wit, evaporated apples.

On June 19, 1916, the defendant entered a plea of guilty to counts 1, 3, 5, 7, 9, and 11 of the information, and the court imposed a fine of \$15 and costs. Counts 2, 4, 6, 8, 10, and 12 were nol-prossed.

CARL VROOMAN, *Acting Secretary of Agriculture.*